

RECEIVED
SUPREME COURT
STATE OF WASHINGTON

09 OCT 23 PM 2:21

BY RONALD R. CARPENTER

CLERK

IN THE SUPREME COURT
OF THE STATE OF WASHINGTON

IN RE THE PERSONAL RESTRAINT
PETITION OF:

HARRY CARRIER,

Petitioner.

NO. 83377-0

STATE'S RESPONSE TO PERSONAL
RESTRAINT PETITION

A. ISSUES PERTAINING TO PERSONAL RESTRAINT PETITION:

1. Must the petition be dismissed where petitioner's judgment and sentence was final more than one year ago and the judgment and sentence is valid on its face?

B. STATUS OF PETITIONER:

Petitioner, Harry Carrier, is restrained pursuant to a judgment and sentence entered in Pierce County Cause No. 04-1-03722-2. Appendix A. On June 15, 2005, petitioner pled guilty to first degree child molestation, dealing in depictions of minors engaged in sexually explicit conduct, and possession of depictions of minors engaged in sexually explicit conduct. At the sentencing hearing on February 10, 2006, the court found that petitioner's 1981 conviction for indecent liberties was comparable to a first degree child molestation conviction. Appendix A, Sec. 4.2. This finding has never been challenged. The court sentenced petitioner to life in prison as a persistent offender on the first degree child

1 molestation count, sixty months on the dealing in depictions of minors engaged in sexually
2 explicit conduct, and 12 months on possession of depictions of minors engaged in sexually
3 explicit conduct. Appendix A.

4 Petitioner does not assert he is indigent in his petition. The State has no information
5 on petitioner's financial status.

6 C. LAW & ARGUMENT:

7 Petitioner argues that his judgment and sentence is facially invalid because the trial
8 court included his 1981 conviction for indecent liberties as part of his offender score after
9 it was dismissed pursuant to RCW 9.95.240. Petitioner's facial invalidity argument fails
10 for several reasons: First, his argument fails because RCW 9.95.240, as it existed at the
11 time petitioner's indecent liberties conviction was dismissed, specifically states that
12 convictions dismissed pursuant that statute may be pleaded and proved in the prosecution
13 of any other offense and "shall have the same effect as if probation had not been granted or
14 the information or indictment dismissed." Second, in 2003, prior to petitioner's sentencing
15 on this matter, the legislature amended RCW 9.95.240 to add subsection (2), which allows
16 an offender convicted of a pre-SRA offense to petition the court to vacate the conviction
17 under the same terms and restrictions as RCW 9.94A.640. Finally, petitioner's argument
18 that convictions dismissed pursuant to RCW 9.95.240 should be treated the same as
19 convictions vacated under RCW 9.95.640 also fails to establish a facial invalidity because
20 RCW 9.95.640 specifically prohibits the vacating of sex offenses like indecent liberties
21 and first degree child molestation.

22 a. General personal restraint petition law

23 Personal restraint procedure came from the State's habeas corpus remedy, which is
24 guaranteed by article 4, § 4 of the State Constitution. *In re Hagler*, 97 Wn.2d 818, 823,
25 650 P.2d 1103 (1982). Collateral attack by personal restraint petition is not, however, a

1 substitute for direct appeal. *Id.* at 824. “[C]ollateral relief undermines the principles of
2 finality of litigation, degrades the prominence of the trial, and sometimes costs society the
3 right to punish admitted offenders.” *Id.* (citing *Engle v. Issac*, 456 U.S. 107, 102 S. Ct.
4 1558, 71 L. Ed. 2d 783 (1982)). These costs are significant and require that collateral
5 relief be limited in state as well as federal courts. *Hagler*, 97 Wn.2d at 824.

6 Because of the costs and risks involved, there is a time limit in which to file a
7 collateral attack. RCW 10.73.090(1) subjects petitions to a one-year statute of limitation.
8 The statute provides:

9 No petition or motion for collateral attack on a judgment and sentence in a
10 criminal case may be filed more than one year after the judgment becomes
11 final if the judgment and sentence is valid on its face and was rendered by
a court of competent jurisdiction.

12 RCW 10.73.090(1). The statute of limitations set forth in RCW 10.73.090(1) is a
13 mandatory rule that bars appellate consideration of personal restraint petitions filed after
14 the limitation period has passed, unless the petitioner demonstrates that the petition falls
15 within an exemption to the time limit under RCW 10.73.090 (facial invalidity or lack of
16 jurisdiction) or is based solely on one or more of the following grounds:

- 17 (1) Newly discovered evidence, if the defendant acted with reasonable
diligence in discovering the evidence and filing the petition or motion;
- 18 (2) The statute that the defendant was convicted of violating was
unconstitutional on its face or as applied to the defendant’s conduct;
- 19 (3) The conviction was barred by double jeopardy under Amendment V of
the United States Constitution or Article I, section 9 of the State
20 Constitution;
- 21 (4) The defendant pled not guilty and the evidence introduced at trial was
insufficient to support the conviction;
- 22 (5) The sentence imposed was in excess of the court’s jurisdiction; or
- 23 (6) There has been a significant change in the law, whether substantive or
procedural, which is material to the conviction, sentence, or other
24 order entered in a criminal or civil proceeding instituted by the state or
local government, and either the legislature has expressly provided
25 that the change in the law is to be applied retroactively, or a court, in
interpreting a change in the law that lacks express legislative intent
regarding retroactive application, determines that sufficient reasons
exist to require retroactive application of the changed legal standard.

1 RCW 10.73.100.

2
3 The petitioner bears the burden of proving that his petition falls within an exception
4 to the one year bar. *Shumway v. Payne*, 136 Wn.2d 383, 399-400, 964 P.2d 349 (1998).
5 To meet that burden of proof, the petitioner must state the applicable exception within the
6 petition. *Shumway v. Payne*, 136 Wn.2d at 399-400. Neither the Supreme Court nor the
7 Court of Appeals may grant relief on a petition that is time barred. *See* RAP 16.4(d).

8 A petitioner asserting a constitutional violation must show actual and substantial
9 prejudice. *In re Haverty*, 101 Wn.2d 498, 681 P.2d 835 (1984). A petitioner relying on
10 non-constitutional arguments, however, must demonstrate a fundamental defect that
11 inherently results in a complete miscarriage of justice. *In re Cook*, 114 Wn.2d 802, 810-
12 11, 792 P.2d 506 (1990). This is a higher standard than the constitutional standard of
13 actual prejudice. *In re Cook*, at 810.

14
15 Reviewing courts have three options in evaluating personal restraint petitions:

- 16 1. If a petitioner fails to meet the threshold burden of showing actual
17 prejudice arising from constitutional error or a fundamental defect
18 resulting in a miscarriage of justice, the petition must be dismissed;
19
20 2. If a petitioner makes at least a prima facie showing of actual
21 prejudice, but the merits of the contentions cannot be determined
22 solely on the record, the court should remand the petition for a full
23 hearing on the merits or for a reference hearing pursuant to RAP
24 16.11(a) and RAP 16.12;
25
26 3. If the court is convinced a petitioner has proven actual prejudicial
27 error, the court should grant the personal restraint petition without
28 remanding the cause for further hearing.

29 *In re Hews*, 99 Wn.2d 80, 88, 660 P.2d 263 (1983).

30 The petition must include a statement of the facts upon which the claim of unlawful
31 restraint is based and the evidence available to support the factual allegations. RAP

1 16.7(a)(2); *Petition of Williams*, 111 Wn.2d 353, 365, 759 P.2d 436 (1988). Affidavits,
2 transcripts and clerk's papers are readily available forms of evidence that a petitioner may
3 employ to support his claims. *Id.* at 364-365. A reference hearing is not a substitute for
4 the petitioner's failure to provide evidence to support his claims. As the Supreme Court
5 stated, "the purpose of a reference hearing is to resolve genuine factual disputes, not to
6 determine whether the petitioner actually has evidence to support his allegations." *In re*
7 *Rice*, 118 Wn.2d 876, 886, 828 P.2d 1086 (1992). "Bald assertions and conclusory
8 allegations will not support the holding of a hearing, but the dismissal of the petition."
9 *Rice*, at 886, *Williams*, at 364-365.

10
11 The evidence presented to an appellate court to support a claim in a personal
12 restraint petition must also be in proper form. On this subject, the Washington Supreme
13 Court has stated:

14 It is beyond question that all parties appearing before the courts of this
15 State are required to follow the statutes and rules relating to authentication
of documents. This court will in future cases accept no less.

16 *In re Connick*, 144 Wn.2d 442, 458, 28 P.3d 729 (2001). This rule applies to pro se
17 defendants as well:

18 Although functioning pro se through most of these proceedings, Petitioner
19 – not a member of the bar – is nevertheless held to the same responsibility
as a lawyer and is required to follow applicable statutes and rules.

20 *Connick*, 144 Wn.2d at 455. If the petitioner fails to provide sufficient competent
21 evidence to support his challenge, the petition must be dismissed. *Williams*, at 364. Any
22 supporting affidavits or declarations must be testimonial in nature. *State v. Crumpton*, 90
23 Wn. App. 297, 952 P.2d 1100 (1998).
24
25

1 In the present case, petitioner's judgment and sentence became final on July 6,
2 2007, the date the appellate court issued its mandate disposing of petitioner's direct appeal.
3 See RCW 10.73.090(3)(b). Petitioner's personal restraint petition was not filed until July
4 22, 2009, more than two years after his judgment and sentence became final. Thus,
5 petitioner's petition is time barred unless he can show that his judgment and sentence is
6 facially invalid or his claim falls under one of the exceptions to the time bar listed in RCW
7 10.73.100.

8
9 Petitioner's sole claim in his personal restraint petition is that his judgment and
10 sentence is facially invalid because his 1981 indecent liberties conviction was included in
11 his offender score. Petitioner's claim fails because while his 1981 indecent liberties
12 conviction was dismissed pursuant to RCW 9.95.240, it was never vacated, and therefore
13 the sentencing court properly included it when calculating petitioner's offender score. See
14 Brief of Petitioner, Appendix B.

15 b. Under RCW 9.95.240 a defendant who has successfully completed
16 his probation and had his conviction dismissed, does not
automatically have his conviction vacated.

17 Petitioner argues that dismissal of a pre-SRA conviction under RCW 9.95.240 is
18 equivalent to vacating a conviction under RCW 9.94A.640. In making this argument,
19 petitioner improperly argues that existing case law was implied overruled by *State v.*
20 *Breazeale* and ignores the 2003 amendment to RCW 9.95.240, which outlines the only
21 process by which a defendant convicted of a crime prior to the effective date of the SRA
22 can petition the court to vacate his conviction.

23 In 1980, Willie Wade was convicted of unlawful possession of a controlled
24 substance, a class C felony. *State v. Wade*, 44 Wn. App. 154, 160, 721 P.2d 977, review
25 denied, 107 Wn.2d 1003 (1986). He was given a deferred sentence and an order of

1 dismissal was later entered. *Wade*, at 160. In 1984, Wade committed two robberies and
2 was subsequently convicted of both. *Id.* at 155-56. At sentencing, the trial court included
3 Wade's 1980 conviction for unlawful possession of a controlled substance as part of his
4 offender score. *Id.* at 160-61. On appeal, Wade alleged the court had erred in including the
5 1980 conviction in his offender score, but the Court of Appeals affirmed, finding that even
6 though the conviction was dismissed it was preserved for any subsequent prosecution. *Id.*
7 at 160-61, citing *State v. Braithwaite*, 92 Wn.2d 624, 600 P.2d 1260 (1979), *overruled on*
8 *other grounds by State v. Hennings*, 100 Wn.2d 379, 670 P.2d 256 (1983). The court also
9 noted that even under the SRA, Wade's unlawful possession of a controlled substance
10 conviction would count as part of his offender score because it is a class C felony and less
11 than five years had passed since the date other applicant was discharged under RCW
12 9.94A.220. *Id.* at 160-61.

13 Similarly, in *State v. Moore*, 75 Wn. App. 166, 876 P.2d 959 (1994), Richard
14 Moore was convicted of attempted indecent liberties in 1980, and received a deferred
15 sentence. After completing his probation, he was allowed to change his plea to not guilty
16 under RCW 9.95.240, and the charge was dismissed. *Moore*, at 169. Years later, Moore
17 plead guilty to a third degree assault charge, believing that his 1980 attempted indecent
18 liberties conviction would not count as part of his offender score because it had been
19 dismissed. *Id.* at 168-69. The trial court disagreed, and Moore's attempted indecent
20 liberties conviction was included when the court calculated Moore's offender score. On
21 appeal, Moore equated his 1980 dismissal under RCW 9.95.240 with a vacate under then
22 RCW 9.94A.230(3)¹ The court rejected Moore's argument relying on *State v. Wade* and
23 the plain language of RCW 9.95.240, which expressly permits the State to plead and prove
24

25 ¹ Currently RCW 9.94A.640.

1 the dismissed charge in a subsequent prosecution and it "shall have the same effect as if
2 probation had not been granted, or the information or indictment dismissed." *Id.* at 171
3 citing RCW 9.95.240. The court also noted that Moore's conviction for indecent liberties
4 was a crime against persons, and therefore Moore would have been unlikely to have been
5 able to vacate his attempted indecent liberties conviction under RCW 9.94A.230. *Id.* at
6 170 n. 4.

7 Here, petitioner makes the exact same argument as was made in *Moore*. He is
8 asking this court to find that his 1985 dismissal under RCW 9.95.240 really vacated his
9 1981 indecent liberties conviction by analogizing the dismissal to a vacate under RCW
10 9.94A.640. Like *Moore* and *Wade*, this Court should reject petitioner's argument because
11 a dismissal pursuant to RCW 9.95.240 is not equivalent to a vacate under RCW 9.94A.640.
12 Additionally, also like *Moore*, petitioner would not have been able to vacate his
13 conviction, because indecent liberties is a crime against persons, and RCW 9.94A.640
14 prohibits the vacation of crimes against persons.²

15
16 Petitioner relies upon *State v. Breazeale*, 144 Wn.2d 829, 31 P.3d 1155 (2001), to
17 argue that *Wade* and *Moore* were wrongly decided. Brief of Petitioner at 3. Petitioner's
18 reliance on *Breazeale* is misplaced

19 In *State v. Breazeale*, Randy Breazeale was convicted of second degree burglary in
20 1976 and, in the same year, Sheila Berlanga-Hernandez was convicted of forgery. 144
21 Wn.2d 829, 833. Both Breazeale and Berlanga-Hernandez received deferred sentences,
22 and following the successful completion of their respective probations, they each had their
23

24
25 ² While petitioner makes no argument that his indecent liberties conviction should have washed, it should be
noted that like *Moore*, petitioner's sex offense can not wash and under RCW 9.94A.525(2)(a) will always be
counted as part of petitioner's offender score. *Moore*, 75 Wn. App. 166, 170 n 3; *see also* RCW
9.94A.030(46)(a)(i) and 9A.44.100 (indecent liberties is a felony within 9A.44).

1 convictions dismissed pursuant to RCW 9.95.240.³ *Breazeale*, at 833. In 1998, Breazeale
2 and Berlanga-Hernandez filed motions for orders vacating the judgments and sentences,
3 and the trial court granted their motions. *Id.*, at 833-34. The Washington State Patrol
4 (WSP), however, refused to comply with the court's orders because the WSP believed that
5 the vacation statute only applied to persons who were convicted after June 30, 1984. *Id.* at
6 834. On appeal, this Court held "that a superior court has in the statutory authority under
7 RCW 9.95.240 to grant a petition to vacate the conviction record following dismissal of
8 the charge under the same statute." *Id.* at 838. The court noted "[w]ithout the ability to
9 petition the court to *also* vacate the conviction record and compel the Patrol to restrict
10 public access to those records, the entitlement provided by [RCW 9.95.240] and intended
11 by the Legislature is rendered meaningless." *Id.* at 838 (emphasis added)
12

13 Contrary to petitioner's position, *Breazeale* does not hold that a dismissal under
14 RCW 9.95.240 is the equivalent to a vacate under RCW 9.94A.640. Instead, *Breazeale*
15 holds that after a defendant has his conviction dismissed under RCW 9.95.240, the
16 defendant can also petition to have his conviction vacated under the same statute. In fact,
17 two years after *Breazeale* was decided, the legislature amended RCW 9.95.240 to clarify
18 that the rules regarding vacating a conviction apply identically to both pre- and post-SRA
19 convictions. The 2003 amendment stated in the relevant part:
20

21 (2)(a) After the period of probation has expired, the defendant may apply
22 to the sentencing court for a vacation of the defendant's record of
23 conviction under RCW 9.94A.640. The court may, in its discretion, clear
24 the record of conviction if it finds the defendant has met the equivalent of
25 the tests in RCW 9.94A.640(2) as those tests would be applied to a person
convicted of a crime committed before July 1, 1984.

³ Breazeale's conviction was dismissed in 1979, and Berlanga-Hernandez's conviction was dismissed in 1978. Breazeale, 144 Wn.2d 829, 833.

1 (b) The clerk of the court in which the vacation order is entered shall
2 immediately transmit the order vacating the conviction to the Washington
3 state patrol identification section and to the local police agency, if any,
4 which holds criminal history information for the person who is the subject
5 of the conviction. The Washington state patrol and any such local police
6 agency shall immediately update their records to reflect the vacation of the
7 conviction, and shall transmit the order vacating the conviction to the
8 federal bureau of investigation. A conviction that has been vacated under
9 this section may not be disseminated or disclosed by the state patrol or
10 local law enforcement agency to any person, except other criminal justice
11 enforcement agencies.

12 RCW 9.95.240(2). Both *Breazeale* and subsection (2) make clear that a dismissal under
13 RCW 9.95.240(1) is not the equivalent of a vacate under RCW 9.94A.640, because the
14 additional step of petitioning the court to vacate the conviction is required under both
15 statute and case law.

16 In the present case, like *Breazeale*, petitioner has a pre-SRA conviction that was
17 dismissed pursuant to RCW 9.95.240. *See* Brief of Petitioner, Appendix B. However,
18 unlike *Breazeale*, petitioner never made a motion to vacate his conviction under that
19 statute or RCW 9.94A.640. Also, unlike the defendants in *Breazeale*, petitioner would not
20 have been eligible to have his 1981 conviction for indecent liberties vacated even if he had
21 made such a motion. In *Breazeale*, the court noted that had Breazeale and Berlanga-
22 Hernandez been convicted of their respective felonies after July 1, 1984, they would have
23 been eligible for vacation under then RCW 9.94A.230⁴. Such is not the case for petitioner.
24 Instead, like *Moore*, petitioner's conviction for indecent liberties could not be vacated
25 because it is a crime against persons as defined in RCW 43.43.830, and RCW
9.94A.640(2) states that an offender may not have his record cleared if the offense was a
crime against persons.

⁴ Currently 9.94A.640.

1 Petitioner's argument that *Breazeale* holds that a dismissal under RCW 9.95.240 is
2 the equivalent of a vacate under RCW 9.94A.640 is without merit. *Breazeale* merely holds
3 that a defendant whose pre-SRA conviction has been dismissed under RCW 9.95.240 shall
4 have the same opportunity to petition the court to vacate his conviction as a defendant
5 whose conviction was obtained post-SRA, and could petition the court to vacate under
6 RCW 9.94A.640. This court should dismiss petitioner's petition.

- 7
8 c. Defendant's 1981 conviction for indecent liberties can not be
9 vacated under either RCW 9.94A.640 or 9.95.240 and was properly
10 included as part of defendant's offender score.

11 Petitioner's claim should be dismissed because neither RCW 9.95.240 nor
12 9.94A.640 permit the vacation of an indecent liberties conviction, and the trial court
13 properly included petitioner's 1981 indecent liberties conviction when calculating
14 petitioner's offender score.

15 An offender must be sentenced based upon the law in effect at the time the current
16 offense was committed. RCW 9.94A.345. Petitioner committed the first degree child
17 molestation at issue in this case between June and July of 2004. Therefore, the laws in
18 effect during that time control petitioner's sentencing in this case.

19 In 2004, RCW 9.94A.640⁵ stated in the pertinent part:

20 (1) Every offender who has been discharged under RCW 9.94A.637 may
21 apply to the sentencing court for a vacation of the offender's record of
22 conviction. **If the court finds the offender meets the tests prescribed in**
23 **subsection (2) of this section, the court may clear the record of**
24 **conviction by: (a) Permitting the offender to withdraw the offender's**
25 **plea of guilty and to enter a plea of not guilty; or (b) if the offender has**
been convicted after a plea of not guilty, by the court setting aside the
verdict of guilty; and (c) by the court dismissing the information or
indictment against the offender.

⁵ In 2001 former RCW 9.94A.230 was recodified as 9.94A.640

1
2 **(2) An offender may not have the record of conviction cleared if...the offense was a crime against persons as defined in RCW 43.43.830...**

3 (3) Once the court vacates a record of conviction under subsection (1) of
4 this section, the fact that the offender has been convicted of the offense
5 shall not be included in the offender's criminal history for purposes of
6 determining a sentence in any subsequent conviction, and the offender
7 shall be released from all penalties and disabilities resulting from the
8 offense. For all purposes, including responding to questions on
9 employment applications, an offender whose conviction has been vacated
10 may state that the offender has never been convicted of that crime.
11 Nothing in this section affects or prevents the use of an offender's prior
12 conviction in a later criminal prosecution.

13
14 In 2004, RCW 9.95.240 read as follows:

15 (1) Every defendant who has fulfilled the conditions of his or her
16 probation for the entire period thereof, or who shall have been discharged
17 from probation prior to the termination of the period thereof, may at any
18 time prior to the expiration of the maximum period of punishment for the
19 offense for which he or she has been convicted be permitted in the
20 discretion of the court to withdraw his or her plea of guilty and enter a
21 plea of not guilty, or if he or she has been convicted after a plea of not
22 guilty, the court may in its discretion set aside the verdict of guilty; and in
23 either case, the court may thereupon dismiss the information or indictment
24 against such defendant, who shall thereafter be released from all penalties
25 and disabilities resulting from the offense or crime of which he or she has
been convicted. The probationer shall be informed of this right in his or
her probation papers: PROVIDED, That in any subsequent prosecution,
for any other offense, such prior conviction may be pleaded and proved,
and shall have the same effect as if probation had not been granted, or the
information or indictment dismissed.

20 **(2)(a) After the period of probation has expired, the defendant may**
21 **apply to the sentencing court for a vacation of the defendant's record**
22 **of conviction under RCW 9.94A.640. The court may, in its discretion,**
23 **clear the record of conviction if it finds the defendant has met the**
24 **equivalent of the tests in RCW 9.94A.640(2) as those tests would be**
25 **applied to a person convicted of a crime committed before July 1,**
1984.

(b) The clerk of the court in which the vacation order is entered shall
immediately transmit the order vacating the conviction to the Washington

1 state patrol identification section and to the local police agency, if any,
2 which holds criminal history information for the person who is the subject
3 of the conviction. The Washington state patrol and any such local police
4 agency shall immediately update their records to reflect the vacation of the
5 conviction, and shall transmit the order vacating the conviction to the
6 federal bureau of investigation. A conviction that has been vacated under
7 this section may not be disseminated or disclosed by the state patrol or
8 local law enforcement agency to any person, except other criminal justice
9 enforcement agencies.

10 (emphasis added)

11 As noted above, neither RCW 9.94A.640 nor 9.95.240 allows a defendant to vacate
12 a conviction if it was considered a crime against persons as defined in RCW 43.43.830⁶.
13 Both indecent liberties and first degree child molestation (to which the sentencing court
14 found petitioner's indecent liberties conviction comparable) are considered crimes against
15 persons. Thus, both RCW 9.94A.640(2)(c) and 9.95.240(2) prohibited petitioner from
16 having his 1981 conviction for indecent liberties vacated.

17 Petitioner also relies upon RCW 9.94A.030(13)(b) to support his argument that
18 petitioner's indecent liberties conviction should not be counted as part of his criminal
19 history. RCW 9.94A.030(13)(b) states:

20 A conviction may be removed from a defendant's criminal history only if
21 it is vacated pursuant to RCW 9.96.060, 9.94A.640, 9.95.240, or a similar
22 out-of-state statute, or if the conviction has been vacated pursuant to a
23 governor's pardon.

24 ⁶ RCW 43.43.830 (5) states: "Crime against children or other persons" means a conviction of any of the
25 following offenses: Aggravated murder; first or second degree murder; first or second degree kidnapping;
first, second, or third degree assault; first, second, or third degree assault of a child; first, second, or third
degree rape; first, second, or third degree rape of a child; first or second degree robbery; first degree arson;
first degree burglary; first or second degree manslaughter; first or second degree extortion; **indecent
liberties**; incest; vehicular homicide; first degree promoting prostitution; communication with a minor;
unlawful imprisonment; simple assault; sexual exploitation of minors; first or second degree criminal
mistreatment; endangerment with a controlled substance; child abuse or neglect as defined in RCW
26.44.020; first or second degree custodial interference; first or second degree custodial sexual misconduct;
malicious harassment; **first, second, or third degree child molestation**; first or second degree sexual
misconduct with a minor; *patronizing a juvenile prostitute; child abandonment; promoting pornography;
selling or distributing erotic material to a minor; custodial assault; violation of child abuse restraining order;
child buying or selling; prostitution; felony indecent exposure; criminal abandonment; or any of these crimes
as they may be renamed in the future. (emphasis added)

1 Petitioner then states that "it is indisputable that Carrier's prior "strike" was vacated
2 pursuant to RCW 9.5.040 [sic]." Brief of Petitioner at 7. Petitioner's argument fails
3 because his case was dismissed pursuant to 9.95.240, *not* vacated, and therefore RCW
4 9.94A.030(13)(b) provides no support to petitioner.

5
6 Petitioner's indecent liberties conviction was properly counted as part of his
7 offender score, and his petition should be dismissed.

8
9 D. CONCLUSION:

10 Petitioner's petition should be dismissed because petitioner's judgment and
11 sentence is facially valid as the trial court properly included petitioner's 1981 indecent
12 liberties conviction as part of his criminal history when calculating petitioner's offender
13 score.

14 DATED: October 23, 2009.

15 MARK LINDQUIST
16 Pierce County
17 Prosecuting Attorney

18 Karen A. Watson
19 KAREN A. WATSON
20 Deputy Prosecuting Attorney
21 WSB # 24259

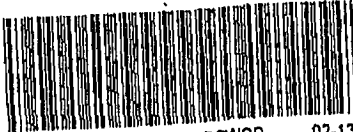
22 Certificate of Service:

23 The undersigned certifies that on this day she delivered by U.S. mail or
24 ABC-LMI delivery to the petitioner true and correct copies of the document to
25 which this certificate is attached. This statement is certified to be true and
correct under penalty of perjury of the laws of the State of Washington. Signed
at Tacoma, Washington, on the date below.

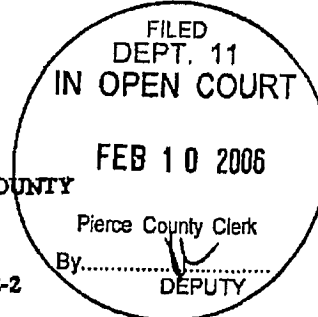
26 10/23/09 [Signature]
Date Signature

APPENDIX “A”

Judgment and Sentence



04-1-03722-2 24915677 JDSWCD 02-13-06



SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY

STATE OF WASHINGTON,

Plaintiff,

CAUSE NO: 04-1-03722-2

vs.

HARRY NATHAN CARRIER,

Defendant.

WARRANT OF COMMITMENT

- 1) ☐ County Jail
2) ☒ Dept. of Corrections
3) ☐ Other Custody

FEB 10 2006

THE STATE OF WASHINGTON TO THE DIRECTOR OF ADULT DETENTION OF PIERCE COUNTY:

WHEREAS, Judgment has been pronounced against the defendant in the Superior Court of the State of Washington for the County of Pierce, that the defendant be punished as specified in the Judgment and Sentence/Order Modifying/Revoking Probation/Community Supervision, a full and correct copy of which is attached hereto.

[] 1. YOU, THE DIRECTOR, ARE COMMANDED to receive the defendant for classification, confinement and placement as ordered in the Judgment and Sentence. (Sentence of confinement in Pierce County Jail).

[X] 2. YOU, THE DIRECTOR, ARE COMMANDED to take and deliver the defendant to the proper officers of the Department of Corrections, and

YOU, THE PROPER OFFICERS OF THE DEPARTMENT OF CORRECTIONS, ARE COMMANDED to receive the defendant for classification, confinement and placement as ordered in the Judgment and Sentence. (Sentence of confinement in Department of Corrections custody).

WARRANT OF
COMMITMENT - 1

Office of Prosecuting Attorney
946 County-City Building
Tacoma, Washington 98402-2171
Telephone: (253) 798-7400

04-1-03722-2

[] 3. YOU, THE DIRECTOR, ARE COMMANDED to receive the defendant for
classification, confinement and placement as ordered in the Judgment and Sentence.
(Sentence of confinement or placement not covered by Sections 1 and 2 above).

Dated: 2-10-06

By direction of the Honorable

John A. McCarthy
JOHN A. MCCARTHY

CLERK

By: *Melissa Engler*

DEPUTY CLERK

CERTIFIED COPY DELIVERED TO SHERIFF

Date: FEB 10 2006

Melissa Engler
Deputy

STATE OF WASHINGTON

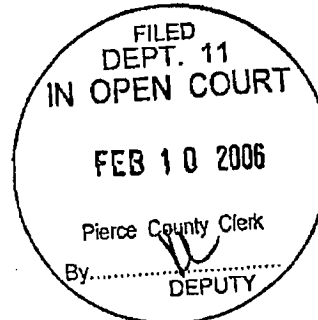
County of Pierce

I, Kevin Stock, Clerk of the above entitled
Court, do hereby certify that this foregoing
instrument is a true and correct copy of the
original now on file in my office.
IN WITNESS WHEREOF, I hereunto set my
hand and the Seal of Said Court this
_____ day of _____,

KEVIN STOCK, Clerk

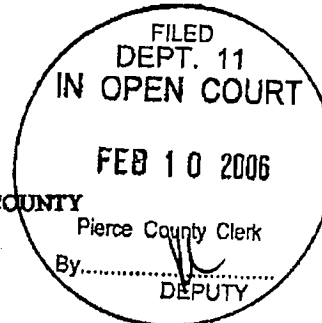
By: _____ Deputy

jch



WARRANT OF
COMMITMENT - 2

Office of Prosecuting Attorney
946 County-City Building
Tacoma, Washington 98402-2171
Telephone: (253) 798-7400



SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY

STATE OF WASHINGTON,

Plaintiff,

CAUSE NO. 04-1-03722-2

vs.

JUDGMENT AND SENTENCE (JS)

HARRY NATHAN CARRIER

Defendant.

☒ Prison
☐ Jail One Year or Less
☐ First-Time Offender
☐ SSOSA
☐ DOSA
☐ Breaking The Cycle (BTC)

FEB 10 2006

SID: 15747281
DOB: 02/26/50

I. HEARING

- 1.1 A sentencing hearing was held and the defendant, the defendant's lawyer and the (deputy) prosecuting attorney were present.

II. FINDINGS

There being no reason why judgment should not be pronounced, the court FINDS:

- 2.1 CURRENT OFFENSE(S): The defendant was found guilty on June 13, 2005 on Counts IV and V, and found guilty on June 15, 2005, for Count I

by [X] plea [] jury-verdict [] bench trial of:

COUNT	CRIME	RCW	ENHANCEMENT TYPE*	DATE OF CRIME	INCIDENT NO.
I	Child Molestation in the First Degree	9A.44.073	N/A	06/01/04 - 07/30/04	045040 (Olympia PD)
IV	Dealing in Depictions of Minors Engaged in Sexually Explicit Conduct	9.68A.050(1)	N/A	06/01/04 - 07/30/04	045040
V	Possession of Depictions of Minors Engaged in Sexually Explicit Conduct	9.68A.070	N/A	06/01/04 - 07/30/04	045040

- * (F) Firearm, (D) Other deadly weapons, (V) VUCSA in a protected zone, (VH) Veh. Hom, See RCW 46.61.520, (JP) Juvenile present.

JUDGMENT AND SENTENCE (JS)
(Felony) (6/19/2003) Page 1 of

Office of Prosecuting Attorney
946 County City Building
Tacoma, Washington 98402-2171
Telephone: (253) 798-7400

06-9-01893-2

04-1-03722-2

as charged in the Amended Information

- ☐ Current offenses encompassing the same criminal conduct and counting as one crime in determining the offender score are (RCW 9.94A.589): NONE. ALL SEPARATE CRIMINAL CONDUCT.
- ☐ Other current convictions listed under different cause numbers used in calculating the offender score are (list offense and cause number):

2.2 CRIMINAL HISTORY (RCW 9.94A.525):

	CRIME	DATE OF SENTENCE	SENTENCING COURT (County & State)	DATE OF CRIME	A or J ADULT JUV	TYPE OF CRIME
1	Indecent Liberties	10/01/81	King County, WA	02/28/81 - 03/14/81	Adult	Sex
2	Rape in the Third Degree	04/17/92	King County, WA	07/31/91	Adult	Sex

- ☐ The court finds that the following prior convictions are one offense for purposes of determining the offender score (RCW 9.94A.525):

2.3 SENTENCING DATA:

COUNT NO.	OFFENDER SCORE	SERIOUSNESS LEVEL	STANDARD RANGE (not including enhancements)	PLUS ENHANCEMENTS	TOTAL STANDARD RANGE (including enhancements)	MAXIMUM TERM
I	9	X	Life w/out Parole	N/A	Life w/out Parole	LIFE
IV	9	VII	60 months	N/A	60 months	5 years
V	---	Unranked	0-12 months	N/A	0-12 months	5 years

- 2.4** ☐ **EXCEPTIONAL SENTENCE.** Substantial and compelling reasons exist which justify an exceptional sentence ☐ above ☐ below the standard range for Count(s) _____. Findings of fact and conclusions of law are attached in Appendix 2.4. The Prosecuting Attorney ☐ did ☐ did not recommend a similar sentence.

- 2.5** **LEGAL FINANCIAL OBLIGATIONS.** The judgment shall upon entry be collectable by civil means, subject to applicable exemptions set forth in Title 6, RCW. Chapter 379, Section 22, Laws of 2003.

- ☐ The following extraordinary circumstances exist that make restitution inappropriate (RCW 9.94A.753):

- ☐ The following extraordinary circumstances exist that make payment of nonmandatory legal financial obligations inappropriate:

04-1-03722-2

2.6 For violent offenses, most serious offenses, or armed offenders recommended sentencing agreements or plea agreements are ☐ attached ☐ as follows: NO AGREEMENTS RE: SENTENCING.

III. JUDGMENT

3.1 The defendant is GUILTY of the Counts and Charges listed in Paragraph 2.1.

3.2 ☒ The court DISMISSES Counts II and III for the reasons set forth in the "Motion and Order for Dismissal Without Prejudice of Counts II and III"

IV. SENTENCE AND ORDER

IT IS ORDERED:

4.1 Defendant shall pay to the Clerk of this Court: (Pierce County Clerk, 930 Tacoma Ave #110, Tacoma WA 98402)

JASS CODE

RTN/RJN \$ _____ Restitution to: _____
\$ _____ Restitution to: _____
(Name and Address--address may be withheld and provided confidentially to Clerk's Office).
PCV \$ 500.00 Crime Victim assessment
DNA \$ 100.00 DNA Database Fee
PUB \$ 400.00 Court-Appointed Attorney Fees and Defense Costs
FRC \$ 110.00 Criminal Filing Fee
FCM \$ _____ Fine

~~CONFINEMENT. RCW 9.94A.712. Defendant is sentenced to the following term of confinement in the custody of the Department of Corrections (DOC):~~

~~Count _____ Minimum Term: _____ Months Maximum Term: _____~~

~~Count _____ Minimum Term _____ Months Maximum Term: _____~~

~~Count _____ Minimum Term _____ Months Maximum Term: _____~~

~~The Indeterminate Sentencing Review Board may increase the minimum term of confinement. ☐~~

~~COMMUNITY CUSTODY is Ordered for counts sentenced under RCW 9.94A.712, from time of release from total confinement until the expiration of the maximum sentence:~~

~~Count _____ until _____ years from today's date ☐ for the remainder of the Defendant's life.~~

~~Count _____ until _____ years from today's date ☐ for the remainder of the Defendant's life.~~

~~Count _____ until _____ years from today's date ☐ for the remainder of the Defendant's life.~~

OTHER LEGAL FINANCIAL OBLIGATIONS (specify below)

\$ _____ Other Costs for: _____

\$ _____ Other Costs for: _____

\$ 1,110.00 TOTAL

(Does not include restitution)

04-1-03722-2

[X] All payments shall be made in accordance with the policies of the clerk, commencing immediately, unless the court specifically sets forth the rate herein: Not less than \$_____ per month commencing _____. RCW 9.94.760. If the court does not set the rate herein, the defendant shall report to the clerk's office within 24 hours of the entry of the judgment and sentence to set up a payment plan.

4.2 RESTITUTION

[] The above total does not include all restitution which may be set by later order of the court. An agreed restitution order may be entered. RCW 9.94A.753. A restitution hearing:

[] shall be set by the prosecutor.

[] is scheduled for _____.

[] defendant waives any right to be present at any restitution hearing (defendant's initials): _____.

X RESTITUTION. Order Attached

4.3 COSTS OF INCARCERATION

[] In addition to other costs imposed herein, the court finds that the defendant has or is likely to have the means to pay the costs of incarceration, and the defendant is ordered to pay such costs at the statutory rate. RCW 10.01.160.

4.4 COLLECTION COSTS

The defendant shall pay the costs of services to collect unpaid legal financial obligations per contract or statute. RCW 36.18.190, 9.94A.780 and 19.16.500.

4.5 INTEREST

The financial obligations imposed in this judgment shall bear interest from the date of the judgment until payment in full, at the rate applicable to civil judgments. RCW 10.82.090

4.6 COSTS ON APPEAL

An award of costs on appeal against the defendant may be added to the total legal financial obligations. RCW. 10.73.

4.7 [X] HIV TESTING

The Health Department or designee shall test and counsel the defendant for HIV as soon as possible and the defendant shall fully cooperate in the testing. RCW 70.24.340.

4.8 [X] DNA TESTING

The defendant shall have a blood/biological sample drawn for purposes of DNA identification analysis and the defendant shall fully cooperate in the testing. The appropriate agency, the county or DOC, shall be responsible for obtaining the sample prior to the defendant's release from confinement. RCW 43.43.754.

4.9 NO CONTACT

The defendant shall not have contact with A.G. (d.o.b. 08/04/92) (name, DOB) including, but not limited to, personal, verbal, telephonic, written or contact through a third party for THE REMAINDER OF THE DEFENDANT'S LIFE (not to exceed the maximum statutory sentence).

[X] Protection Order or Antiharassment Order is filed with this Judgment and Sentence.

4.4 OTHER: _____

4.11 BOND IS HEREBY EXONERATED

4.12 CONFINEMENT OVER ONE YEAR: PERSISTENT OFFENDER. The defendant was found to be a Persistent Offender.

☒ The court finds Count II is a most serious offense and that the defendant has been convicted on at least two separate occasions of most serious offense felonies, at least one of which occurred before the commission of the other most serious offense for which the defendant was previously convicted.

☒ The court finds Count I is a crime listed in RCW 9.94A.030(31)(b)(i) (e.g., rape in the first degree, rape of a child in the first degree (when the offender was sixteen years of age or older when the offender committed the offense), child molestation in the first degree, rape in the second degree, rape of a child in the second degree (when the offender was eighteen years of age or older when the offender committed the offense) or indecent liberties by forcible compulsion; or any of the following offenses with a finding of sexual motivation: murder in the first degree, murder in the second degree, homicide by abuse, kidnapping in the first degree, kidnapping in the second degree, assault in the first degree, assault in the second degree, assault of a child in the first degree, or burglary in the first degree; or an attempt to commit any crime listed in RCW 9.94A.030(31)(b)(i)), and that the defendant has been convicted on at least one separate occasion, whether in this state or elsewhere, of a crime listed in RCW 9.94A.030(31)(b)(i) or any federal or out-of-state offense or offense under prior Washington law that is comparable to the offenses listed in RCW 9.94A.030(31)(b)(i). = Indecent Liberties (981) is comparable to Child Molester 1°

Those prior convictions are included in the offender score as listed in Section 2.2 of this Judgment and Sentence. RCW 9.94A.030, RCW 9.94A.

(a) CONFINEMENT. RCW 9.94A.589. Defendant is sentenced to the following term of total confinement in the custody of the Department of Corrections:

Life without the possibility of early release on Count I
60 months on Count IV
12 months on Count V
_____ months on Count _____

Actual number of months of total confinement ordered is: Life without the possibility of early release.

(b) CONSECUTIVE/CONCURRENT SENTENCES. RCW 9.94A.589. All counts shall be served concurrently, except for the portion of those counts for which there is a special finding of firearm or other deadly weapon as set forth above at Section 2.3, and except for the following counts which shall be served consecutively:

_____ The sentence herein shall run consecutively to all felony sentences in other cause numbers that were imposed prior to the commission of the crime(s) being sentenced.

_____ The sentence herein shall run concurrently with felony sentences in other cause numbers that were imposed subsequent to the commission of the crime(s) being sentenced unless otherwise set forth here.
[] The sentence herein shall run consecutively to the felony sentence in cause number(s) _____

_____ The sentence herein shall run consecutively to all previously imposed misdemeanor sentences unless otherwise set forth here: _____

Confinement shall commence immediately unless otherwise set forth here: _____

04-1-03722-2

4.13 OTHER: _____

CONFINEMENT. RCW 9.94A.712. Defendant is sentenced to the following term of confinement in the custody of the Department of Corrections (DOC):

Count _____ Minimum Term: _____ Months Maximum Term: _____

Count _____ Minimum Term _____ Months Maximum Term: _____

Count _____ Minimum Term _____ Months Maximum Term: _____

The Indeterminate Sentencing Review Board may increase the minimum term of confinement. []
COMMUNITY CUSTODY is Ordered for counts sentenced under RCW 9.94A.712, from time of release from total confinement until the expiration of the maximum sentence:

Count _____ until _____ years from today's date [] for the remainder of the Defendant's life.

Count _____ until _____ years from today's date [] for the remainder of the Defendant's life.

Count _____ until _____ years from today's date [] for the remainder of the Defendant's life.

~~X~~ COMMUNITY CUSTODY is Ordered for counts sentenced under RCW 9.94A.715:

Count IV 36 to 48 months, conditions as set forth in Appendix H

Count V 12 months, conditions as set forth in Appendix H

V. NOTICES AND SIGNATURES

- 5.1 **COLLATERAL ATTACK ON JUDGMENT.** Any petition or motion for collateral attack on this Judgment and Sentence, including but not limited to any personal restraint petition, state habeas corpus petition, motion to vacate judgment, motion to withdraw guilty plea, motion for new trial or motion to arrest judgment, must be filed within one year of the final judgment in this matter, except as provided for in RCW 10.73.100. RCW 10.73.090.
- 5.2 **LENGTH OF SUPERVISION.** For an offense committed prior to July 1, 2000, the defendant shall remain under the court's jurisdiction and the supervision of the Department of Corrections for a period up to 10 years from the date of sentence or release from confinement, whichever is longer, to assure payment of all legal financial obligations unless the court extends the criminal judgment an additional 10 years. For an offense committed on or after July 1, 2000, the court shall retain jurisdiction over the offender, for the purpose of the offender's compliance with payment of the legal financial obligations, until the obligation is completely satisfied, regardless of the statutory maximum for the crime. RCW 9.94A.760 and RCW 9.94A.505.
- 5.3 **NOTICE OF INCOME-WITHHOLDING ACTION.** If the court has not ordered an immediate notice of payroll deduction in Section 4.1, you are notified that the Department of Corrections may issue a notice of payroll deduction without notice to you if you are more than 30 days past due in monthly payments in an amount equal to or greater than the amount payable for one month. RCW 9.94A.7602. Other income-withholding action under RCW 9.94A may be taken without further notice. RCW 9.94A.7602.
- 5.4 **CRIMINAL ENFORCEMENT AND CIVIL COLLECTION.** Any violation of this Judgment and Sentence is punishable by up to 60 days of confinement per violation. Per section 2.5 of this document, legal financial obligations are collectible by civil means. RCW 9.94A.634.
- 5.5 **FIREARMS.** You must immediately surrender any concealed pistol license and you may not own, use or possess any firearm unless your right to do so is restored by a court of record. (The court clerk shall forward a copy of the defendant's driver's license, identicard, or comparable identification to the Department of Licensing along with the date of conviction or commitment.) RCW 9.41.040, 9.41.047.
- 5.6 **SEX AND KIDNAPPING OFFENDER REGISTRATION.** RCW 9A.44.130, 10.01.200. Because this crime involves a sex offense or kidnapping offense (e.g., kidnapping in the first degree, kidnapping in the second degree, or unlawful imprisonment as defined in chapter 9A.40 RCW where the victim is a minor and you are not the minor's parent), you are required to register with the sheriff of the county of the state of Washington where you reside. If you are not a resident of Washington but you are a student in Washington or you are employed in Washington or you carry on a vocation in Washington, you must register with the sheriff of the county of your school, place of employment, or vocation. You must register immediately upon being sentenced unless you are in custody, in which case you must register within 24 hours of your release.
- If you leave the state following your sentencing or release from custody but later move back to Washington, you must register within 30 days after moving to this state or within 24 hours after doing so if you are under the jurisdiction of this state's Department of Corrections. If you leave this state following your sentencing or release from custody but later while not a resident of Washington you become employed in Washington, carry out a vocation in Washington, or attend school in Washington, you must register within 30 days after starting school in this state or becoming employed or carrying out a vocation in this state, or within 24 hours after doing so if you are under the jurisdiction of this state's Department of Corrections.
- If you change your residence within a county, you must send written notice of your change of residence to the sheriff within 72 hours of moving. If you change your residence to a new county within this state, you must send written notice of your change of residence to the sheriff of your new county of residence at least 14 days before moving, register with that sheriff within 24 hours of moving and you must give written notice of your change of address to the sheriff of the county where last registered within 10 days of moving. If you move out of Washington State, you must also send written notice within 10 days of moving to the county sheriff with whom you last registered in Washington State.

04-1-03722-2

If you are a resident of Washington and you are admitted to a public or private institution of higher education, you are required to notify the sheriff of the county of your residence of your intent to attend the institution within 10 days of enrolling or by the first business day after arriving at the institution, whichever is earlier.

Even if you lack a fixed residence, you are required to register. Registration must occur within 24 hours of release in the county where you are being supervised if you do not have a residence at the time of your release from custody or within 48 hours excluding weekends and holidays after ceasing to have a fixed residence. If you enter a different county and stay there for more than 24 hours, you will be required to register in the new county. You must also report weekly in person to the sheriff of the county where you are registered. The weekly report shall be on a day specified by the county sheriff's office, and shall occur during normal business hours. The county sheriff's office may require you to list the locations where you have stayed during the last seven days. The lack of a fixed residence is a factor that may be considered in determining an offender's risk level and shall make the offender subject to disclosure of information to the public at large pursuant to RCW 4.24.550.

If you move to another state, or if you work, carry on a vocation, or attend school in another state you must register a new address, fingerprints, and photograph with the new state within 10 days after establishing residence, or after beginning to work, carry on a vocation, or attend school in the new state. You must also send written notice within 10 days of moving to the new state or to a foreign country to the county sheriff with whom you last registered in Washington State.

5.7 OTHER: _____

DONE in Open Court and in the presence of the defendant this date: 2-10-06

JUDGE

Print name

JOHN A. MCCARTHY

Deputy Prosecuting Attorney

Print name:

JOHN HUMAN

WSB #

25071

Attorney for Defendant

Print name:

RM Quilan

WSB #

6836

Defendant

Print name:

Harry Carner

FILED
DEPT. 11
IN OPEN COURT

FEB 10 2006

Pierce County Clerk

By: _____
DEPUTY

04-1-03722-2

CERTIFICATE OF CLERK

CAUSE NUMBER of this case: 04-1-03722-2

I, KEVIN STOCK Clerk of this Court, certify that the foregoing is a full, true and correct copy of the Judgment and Sentence in the above-entitled action now on record in this office.

WITNESS my hand and seal of the said Superior Court affixed this date: _____

Clerk of said County and State, by: _____, Deputy Clerk

04-1-03722-2

IDENTIFICATION OF DEFENDANT

SID No. 15747281
(If no SID take fingerprint card for State Patrol)

Date of Birth 02/26/50

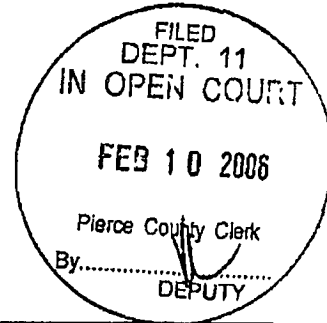
FBI No. 771118AA6

Local ID No. UNK

PCN No. UNK

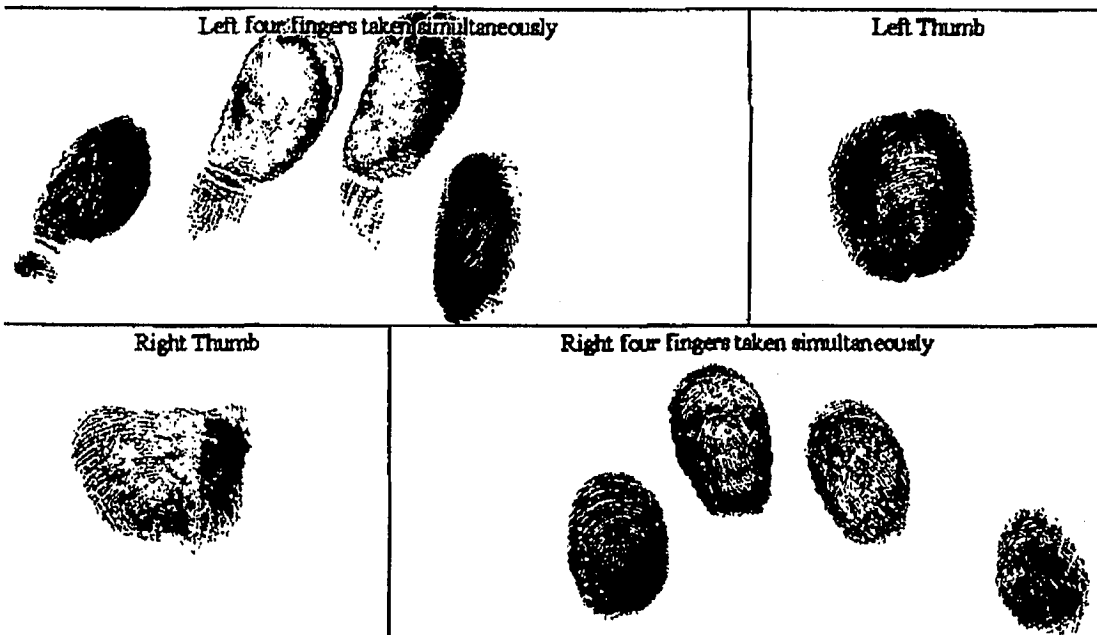
Other

Alias name, SSN, DOB:



Race:					Ethnicity:		Sex:	
<input type="checkbox"/> Asian/Pacific Islander	<input type="checkbox"/> Black/African-American	<input checked="" type="checkbox"/> Caucasian	<input type="checkbox"/> Hispanic	<input checked="" type="checkbox"/> Male				
<input type="checkbox"/> Native American	<input type="checkbox"/> Other: :	<input checked="" type="checkbox"/> Non-Hispanic	<input type="checkbox"/> Female					

FINGERPRINTS



I attest that I saw the same defendant who appeared in court on this document affix his or her fingerprints and signature thereto. Clerk of the Court, Deputy Clerk, [Signature] Dated: 2/10/06

DEFENDANT'S SIGNATURE: [Signature]

DEFENDANT'S ADDRESS: _____

State of Washington, County of Pierce ss: I, Kevin Stock, Clerk of the
aforementioned court do hereby certify that the document
SerialID: 83083618-F20F-6452-D40D322CF7892A4F containing 12 pages plus
this sheet, is a true and correct copy of the original that is of record in my office
and that this image of the original has been transmitted pursuant to statutory
authority under RCW 5.52.050. In Testimony whereof, I have electronically
certified and attached the Seal of said Court on this date.



Kevin Stock, Pierce County Clerk

By /S/Melissa Engler, Deputy.

Dated: Oct 23, 2009 1:13 PM



Instructions to recipient: If you wish to verify the authenticity of the certified
document that was transmitted electronically by the Court, sign on to:

<https://www.co.pierce.wa.us/cfapps/secure/linux/courtfilling/certifieddocumentview.cfm>,

enter **SerialID: 83083618-F20F-6452-D40D322CF7892A4F**.

The copy associated with this number will be displayed by the Court.

OFFICE RECEPTIONIST, CLERK

To: Therese Nicholson-Kahn
Cc: Karen Watson
Subject: RE: Harry Carrier, Case No. 83377-0

Rec'd 10/23/09

Please note that any pleading filed as an attachment to e-mail will be treated as the original. Therefore, if a filing is by e-mail attachment, it is not necessary to mail to the court the original of the document.

From: Therese Nicholson-Kahn [mailto:tnichol@co.pierce.wa.us]
Sent: Friday, October 23, 2009 2:14 PM
To: OFFICE RECEPTIONIST, CLERK
Cc: Karen Watson
Subject: Harry Carrier, Case No. 83377-0

Please see attached the State's Response to Personal Restraint Petition in the below stated matter.

In Re: the PRP of Harry Carrier
No. 83377-0
Submitted by: Karen Watson
WSB # 24259
Ph: 253/798-6592
e-mail: kwatson@co.pierce.wa.us

RECEIVED
SUPREME COURT
STATE OF WASHINGTON
09 OCT 23 PM 2:21
BY RONALD R. CARPENTER
CLERK

Please call me at 253/798-7426 if you have any questions.

Therese Kahn
Legal Assistant to Karen Watson